

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF TENNESSEE
COLUMBIA DIVISION

MELVIN S. NETTLES]	
Plaintiff,]	
]	
v.]	No. 1:10-0073
]	Judge Trauger
BRUCE WESTBROOK, et al.]	
Defendants.]	

M E M O R A N D U M

The plaintiff, proceeding *pro se*, is an inmate at the Turney Center Industrial Prison Annex in Clifton, Tennessee. He brings this action pursuant to 42 U.S.C. § 1983 against Bruce Westbrook, Acting Warden at the Turney Center Industrial Prison; and Debbie Gardner, a Turney Center employee; seeking injunctive relief and damages.

On August 25, 2009, a sizable check worth in excess of \$46,000 was sent to the plaintiff from an attorney. From this sum, the defendants withdrew \$610.47 to offset outstanding fees owed by the plaintiff. The plaintiff claims that this money was improperly withdrawn in violation of his right to due process.

This action is being brought against the defendants in their official capacities only. As such, the plaintiff is suing the defendants' official office rather than the individuals themselves. Will v. Michigan Department of State Police, 109 S.Ct. 2304, 2312

(1989). In essence, then, the plaintiff's claims are against the State of Tennessee, the entity responsible for the operation of the Turney Center Industrial Prison. Johnson v. Dellatifa, 357 F.3d 539, 545 (6th Cir.2004).

The Eleventh Amendment bars a suit in federal court by a citizen against a state unless the state has expressly consented to suit by waiving its sovereign immunity or Congress has clearly overridden that immunity. Pennhurst State School and Hospital v. Halderman, 104 S.Ct. 900, 908 (1984); Will v. Michigan Department of State Police, *supra*. Congress has not overridden a state's sovereign immunity to civil rights complaints. Moreover, the State of Tennessee has not consented to waive its immunity to such actions. Berndt v. Tennessee, 796 F.2d 879 (6th Cir.1986). As a consequence, the plaintiff has failed to state a claim against the defendants acting in their official capacities.

In the absence of an actionable claim, the Court is obliged to dismiss the complaint *sua sponte*. 28 U.S.C. § 1915(e)(2).

An appropriate order will be entered.



Aleta A. Trauger
United States District Judge